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ABSTRACT

The Job Training Partnership Act of 1982 continues a long-standing federal commitment to help disadvantaged persons prepare to obtain employment. The legislation works primarily through a locally based program delivery system to provide remedial education, training, and employment assistance to low-income and long-term unemployed youth and adults. A key feature of the JTPA is promoting equal roles for both the public and the private sectors in all aspects of programs set up under the act. Another is making both sectors partners in determining how funds are administered and programs managed at the local level. This publication provides an overview of the JTPA legislation and an explanation of how it is to be implemented. The first part of the guide is an overview of the legislation, including an outline of major legislative elements and the transition provisions for changing from the Comprehensive Employment and Training Act (CETA) structure to the JTPA structure. The remainder of the paper outlines key features of the new legislation in detail. Eight sections include establishing (1) the state and local delivery system; (2) local public/private partnership and process; (3) authorized activities and use of funds; (4) performance standards, incentives, and sanctions; (5) auditing, monitoring, and reporting techniques; (6) employment service provisions; (7) state activities and programs; and (8) federally administered programs. (KC)

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# Explanation and Analysis of the Job Training Partnership Act of 1982

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## OVERVIEW: JOB TRAINING PARTNERSHIP ACT OF 1982

The Job Training Partnership Act of 1982 continues a longstanding federal commitment to help prepare people with serious employment barriers to be productive members of the labor force. Like the 1973 Comprehensive Employment and Training Act --which it replaces -- the new legislation works primarily through a locally-based program delivery system to provide remedial education, training and employment assistance to low income and long-term unemployed youth and adults.

But the Job Training Partnership Act is very different from CETA in how it proposes to go about this task, and in some key respects can be viewed as a landmark piece of federal aid legislation. For one, the Act goes further than any other similar type of federal legislation -- past or current -- in equalizing authority between the private and public sectors over all aspects of local policymaking, planning, administration, and program operations. This was a deliberate and concrete recognition of the need to harness private sector expertise, resources and support in order to tailor publicly-financed training programs to the local economy. In applying the concept of public/private partnership to an entire area of domestic policy, national policymakers have taken this concept a giant step beyond the experimental (and often rhetorical) phase. The result is to create an important precedent which may affect other areas of public policy in the future.

Another landmark element of the new training legislation is the degree to which it lets the local public and private partners make fundamental decisions on how federal funds will be administered and programs managed at the local level. Like other federal laws incorporating a "block grant" element (but very much unlike CETA), the Act gives localities maximum flexibility to decide the types and mix of program assistance to be provided with federal funds. But it also leaves totally open the questions of what agency or entity will be the local grant recipient and what entity will administer or manage the local program -- questions to be decided jointly by the private industry council (PIC) and chief local elected officials. Since the grant recipient and administrator also can be separate agencies, the legislation provides an unprecedented number of local options on issues that are almost always highly specified in federal aid legislation. Over time, the result is likely to be the development of new and innovative techniques for managing and operating employment and training programs across the country.

Other key features of the new training legislation include:

- A major shift to the state level of functions previously performed by the Department of Labor, such as local plan approval, fiscal oversight and program performance activities.

- A heavy emphasis on spending most funds for training, backed up by specific limits on the portion of local funds that can be used for administrative expenses, wages, supportive services and trainee allowances.

- The introduction of earnings gains and reduced welfare dependency as mandated measures of performance, which will require local programs to achieve minimum performance goals if they expect to continue receiving funds.

Outline of Major Legislative Elements

The Job Training Partnership Act has five titles (or major sections):

Title I deals with the state and local service delivery system and general program and administrative issues. It describes:

- Authorities and requirements for Governors, state job training coordinating councils, local private industry councils, and chief local elected officials.
- Processes for designating local service delivery areas (SDAs), preparing local plans and selecting local service providers.
- Policies and procedures to guide the Labor Department in developing and implementing performance standards for state and local programs funded under the Act.
- Administrative provisions related to fiscal controls, monitoring and recordkeeping.
- Procedures and deadlines governing the transition during FY 1983 from CETA to the new delivery system and program policies.

Title II authorizes funding and sets out requirements for training services to be provided at the local level for disadvantaged youth and adults. It specifies:

- How federal funds for training services are to be allocated to the states, and then from the states to the local service delivery areas.
- What population groups are eligible for training and employment assistance paid for out of Title II funds.
- The great variety of programs and services that can be provided with Title II funds (with allowable activities not limited to those mentioned in the Act).
- Limitations on the amount of local funds that must be used for training, administrative expenses, wages and supportive services, and the method for obtaining state waivers to these limitations.
- Separate funding and program requirements for summer youth training and jobs programs.

Title III provides for a separate, state-administered training and employment aid program for dislocated workers which requires state consultation with local private industry councils at key points of decisionmaking.

Title IV establishes funding and requirements for federally administered activities, including:

- o Programs for Native Americans, migrant workers and veterans.
- o Job Corps
- o Research, demonstration, evaluation, training and technical assistance
- o Labor market information systems
- o Functions of the National Commission for Employment Policy

Title V contains miscellaneous provisions and training-related changes to other federal laws, including:

- o Amendments to the Wagner-Peyser Act altering funding to state employment service agencies and requiring joint planning between the job training and employment service delivery systems
- o Amendments to the Social Security Act affecting coordination between the job training delivery system and the Work Incentive program carried out by state and local welfare agencies.

Transition Provisions

The legislation keeps most CETA provisions in effect until October 1, 1983 -- the beginning of FY 1984 -- in order to provide time for transition to the new delivery system and program policies. But to achieve full operation of the new policies by FY 1984, the entire employment and training system -- federal, state and local -- will have to take many critical actions in 1983:

- o Preparation of federal regulations
- o Appointment of new state job training coordinating councils
- o State designation of new service delivery areas
- o Preparation of state plans and regulations
- o Appointment and staffing of new private industry councils (PICs)
- o Negotiation of agreements betweeen PICs and local elected officials
- o Preparation and approval of local job training plans for the period beginning on October 1, 1983.

These events will be occurring at the same time that client services under the last year of CETA are both being provided and closed-out. Clearly it will not be an easy transition, particularly in areas of the country where service delivery boundaries will change and new consortia will be formed. (See Transition section of this Guide for specific provisions of the law relating to transition and an estimated transition timetable.)

The remainder of this paper outlines key features of the new legislation in detail. Eight sections are included: 1) Establishing the State and Local Delivery System, 2) Local Public/Private Partnership and Process, 3) Authorized Activities and Use of Funds, 4) Performance Standards, Incentives and Sanctions, 5) Auditing Monitoring, and Reporting, 6) Employment Service Provisions, 7) State Activities and Programs, and 8) Federally Administered Programs.

## I. ESTABLISHING THE STATE AND LOCAL DELIVERY SYSTEM

### Funding to the States

Starting in FY 1984, each state will receive a funding allocation from the Department of Labor for activities authorized under Title II, Part A --the core year-round training program for disadvantaged adults and youth.* The state allocations must be made within 45 days after Congress appropriates the money. State funding will be based on a formula giving equal weight to the following three factors:

- the number of unemployed people living in "areas of substantial unemployment" (i.e., where unemployment has been at least 6.5 percent for the most recent 12 months)
- the number of economically disadvantaged people**
- the "excess" number of unemployed people (i.e., those resulting from state unemployment rates over 4.5 percent)

This formula will be adjusted so that no state receives less than .0025 percent of the national allocation or less than 90 percent of what its share was during the previous year.

Out of the amount allocated to each state (under Title II, Part A), 78 percent will be distributed by the state to local service delivery areas, under the same formula used for state allocations. The remaining 22 percent will be reserved at the state level for: education activities (8 percent), training older workers (3 percent), performance awards to local SDAs (6 percent), and other state costs for auditing and administration, technical assistance, statewide training activities, etc. (5 percent).

### State Job Training Coordinating Council

In carrying out many state functions under the Act, the Governor must share authority with a State Job Training Coordinating Council, although all Council decisions are subject to the Governor's approval. This Council is appointed by the Governor -- who also designates a non-governmental member as chairperson -- and has the following membership requirements:

- one-third from business and industry, including business members from local private industry councils

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* Separate allocations will be made for the summer youth program under Title II, Part B, and for the dislocated worker program under Title III. These are discussed in later sections of this paper.

** A low-income factor will be substituted for the few states which contain rural Concentrated Employment Programs if this would result in higher funding for them.

- o at least 20 percent from state legislatures and state agencies (e.g., education, public assistance, employment service, etc.)

- o at least 20 percent from other interests including labor, community based organizations, local education agencies, the eligible population and the general public

- o the Council must "reasonably represent the population of the state," but House and Senate conferees made clear that this provision is not to be interpreted as requiring quotas based on race, sex or other factors.

State Council Functions: The state council's overall function is to plan, coordinate and monitor employment and training programs and services in the state; it is not permitted to operate programs or provide services directly to eligible participants. The Council can hire professional and other staff to help carry out its specific functions, which include:

1) proposing service delivery areas to the Governor

2) recommending to the Governor a state "coordination and special services plan" which includes program coordination criteria that must be followed by local SDAs

3) planning how to allocate the 22 percent of Title II, Part A funds that are administered by the state

4) providing management guidance and review of program operations for all programs in the state (including those of local SDAs)

5) advising Governors on local job training plans submitted for approval, and certifying their consistency with state program coordination criteria

6) reviewing and commenting on state employment service plans

7) assessing employment and training and vocational education needs and activities in the state, and advising the Governor, state legislature and state agencies on needed changes and methods for better coordination with programs related to training

8) carrying out Work Incentive Program and Wagner-Peyser (employment service) advisory functions, if the Governor chooses to transfer these functions from existing state councils.

In the case where a Governor designates the entire state to be a service delivery area, a subcommittee of the State Job Training Coordinating Council can be appointed as the private industry council for that SDA. However, this subcommittee would have to meet the same membership and other criteria applicable to all other local PICs.

Transition Year Implications: Appointment of State Job Training Coordinating Councils is one of the first steps that must be taken to achieve full transition to the new

policies by the beginning of FY 1984. This is because the councils have a key role in proposing SDAs and state planning guidance, steps that must occur before new local PICs can be created and local plans for FY 1984 can be prepared. Thus, the legislastion requires the Labor Department to publish final regulations governing the establishment of state councils by January 1, 1983. (Proposed regs are due by December 14). These DOL regs can be expected to include an early 1983 deadline for all state council appointments to be made.

Designating Service Delivery Areas

The Governor, after receiving recommendations from the state council, is required to publish a proposal for dividing the entire state into service delivery areas (SDAs). The Council's recommendations must include a written explanation of the reasons for designating each SDA. In addition, before the Governor makes final SDA designations, opportunities must be given to local governments, business organizations and other affected parties to comment on and request changes in proposed SDA boundaries.

The legislation is silent on the question of what happens if the Governor ignores or significantly modifies the state council proposal prior to publishing it for public comment. However, the Governor's overall authority to approve all council decisions and plans is clear cut, so there appears to be no legal recourse for a Council whose proposals are vetoed or changed by the Governor.

Designation Criteria: According to the legislation, each proposed SDA must:

1) be comprised of the entire state or one or more units of general local government (i.e., local government boundaries cannot be split);

2) promote the effective delivery of job training services; and

3) be consistent with

   a) labor market areas or standard metropolitan statistical areas (although entire labor market areas need not be designated) or

   b) areas in which related services are provided under other state or federal programs.

One view is that these criteria leave states considerable -- if not wide open -- flexibility to initially propose almost any type of SDAs they choose. This view is enforced by the absence of any specific federal role in reviewing state-proposed SDA structures for adherence to the legislative criteria. Another view, held by Congressional staff who drafted the criteria, is that they prevent states from proposing a highly fragmented SDA structure that would result, for example, in splitting natural labor markets into many separate SDAs. Governors would be expected, it is argued, to correlate SDA boundaries to substate districts through which other programs are already planned and operated. Whether this issue will be clarified in Labor Department regulations is currently unknown.

Automatic Designations: Once the Governor has proposed SDAs for the state, certain areas have the automatic right to request and receive designation as independent SDAs (i.e., rather than being merged into a statewide or multi-jurisdictional SDA). These include:

1) any unit of general local government with a population of 200,000 or more;

2) any consortium of contiguous units of local government which serves a substantial portion of a labor market area and has an aggregate population of at least 200,000; and

3) any rural Concentrated Employment Program (CEP) grantee which served as a CETA prime sponsor.

These three types of areas can appeal, directly to DOL, any state decisions that go contrary to their right to be SDAs. DOL must act on these appeals within 30 days.

Other Designation Provisions: Other legal provisions relating to SDA designation include the following:

- The Governor may (but is not required to) grant a request to be an independent SDA from any local government or consortium of contiguous local governments -- of any size population -- which serves a substantial portion of a labor market area.

- Governors cannot redesignate SDAs more frequently than every two years and all redesignations must be made at least four months before the beginning of a program year.

Implications for the Transition: No "grandfather" clause was included in the legislation permitting existing CETA prime sponsors to remain eligible beyond the 1983 transition year. Thus, the new SDA boundaries must be fully operational by October 1, 1983. Like state council appointments, SDA designation must occur early enough in 1983 in order to provide sufficient time for new PICs to be established in each SDA and for local planning to be completed prior to the beginning of FY 1984. The new legislation requires DOL to publish proposed SDA regulations in the Federal Register by December 15 of this year; final regs must be published by January 1, 1983. DOL will probably require states to propose SDAs very soon after the regs are finalized.

Managing a timely and effective transition will be the first challenge to states, since everything required under the new law must be in place by October 1, 1983. Early actions by states to establish state councils and to designate service delivery areas will be necessary for local PICs to get established, staffed, and up to speed for developing local partnerships.

State Goals and Plans

Annually, each Governor is required to prepare a statement of goals and objectives for job training and placement programs within the state. This statement is intended to "assist" in the preparation of local job training and employment service plans, rather than constituting enforceable policies that local SDAs must adhere to in developing their plans.

In addition, each state must prepare a two-year "coordination and special services plan" for submission to and approval by DOL. The two-year cycle will actually not begin *until 1984 with the first full program year, covering July 1, 1984 through June 30, 1986.* Transition year state plans will probably be shortened versions, drafted during the spring and summer of 1983 to cover the nine-month period from October 1, 1983, through June 30, 1984. A state plan is not intended to be a compilation of local program plans but rather a distinct plan of state programs and activities. It can be submitted to DOL for approval before local plans are submitted to the Governnor.

These state plans, which are to be proposed by State Job Training Coordinating Councils and approved by the Governors, must describe the use of all Job Training Act resources in the state and evaluate experience over the past two years. (See Section VII, "State Activities", for details on legally authorized state activities which would have to be described in the state plan.)

Program Coordination Criteria: From the viewpoint of local SDAs, the most important element of the state plan may be the criteria for coordinating job training with related activities within the state. This is the only program policy element of the state plan that is enforceable locally; that is, Governors may disapprove local plans that do not adhere to the criteria. The legislation provides little guidance on what would constitute such criteria, except to list the types of activities job training might be coordinated with (e.g., state and local education and voc ed, public assistance, the employment service, economic development, etc.). However, the law does state that "such criteria shall not affect local discretion concerning the selection of eligible participants or service providers."

Oversight and Performance: The state plan must include a description of state oversight and support activities; priorities and criteria for state education grants to local SDAs (see Section VII for details), and performance goals for state supported programs. State modifications to performance standards applicable to SDAs must also be included.

Other State Plan Provisions: The Labor Department is required to approve state coordination and special services plans unless they do not comply with specific provisions of the new law. The intention, clearly, is to avoid prolonged and detailed federal reviews of state plans.

Funding to Service Delivery Areas

Governors are required to distribute 78 percent of all Title II, Part A funds, and 100 percent of summer youth funds (Title II, Part B) to local service delivery areas within 30 days after states receive funds from the Labor Department, or within 7 days after the local plan is approved (whichever is later). SDA funds are allocated based on the same formula used for state allocations, that is:

- one-third based on the number of unemployed people living in areas of substantial unemployment;
- one-third based on the number of ecoromically disadvantaged people; and
- one-third based on the excess number of unemployed people (i.e., those resulting from an SDA unemployment rate over 4.5 percent).

There is no "hold harmless" provision for SDAs as there is for state funding, meaning that SDAs are not guaranteed 90 percent of the funds they received during the previous fiscal year. Data used for the allocation formulas are to be the latest available, as determined by the Labor Department.

Establishing Private Industry Councils (PICs)

Every SDA must have a private industry council, appointed and structured in ways which attempt to ensure that the PIC has a business identity and is representative of local business leaders. The legislation does not provide for membership on the PIC by local elected officials or their representatives.

PIC Business Membership: A majority of members on the PIC must be owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management or policy responsibility. House and Senate conferees specifically stated their intent that private sector representatives on the PIC be influential business leaders in the community. Whenever possible, at least one-half of these representatives are to be from small businesses (including minority businesses), defined as for-profit firms with 500 or fewer employees. In addition, the business members must "reasonably represent" the industrial and demographic composition of the local business community.

Nominating PIC Business Members: A special nominating process was included for PIC business members to ensure that they represent the local business community. "General purpose" business organizations -- those who admit to membership any for-profit business in the SDA -- are to consult with other local business groups in putting together a single list of business nominations for PIC membership. The number of nominations must be at least 150 percent of the number of business members to be appointed. Local elected officials must appoint PIC business members from the nomination list provided by these general purpose business organizations.

General purpose business groups would include local Chambers of Commerce and any other group with open membership policies for all businesses. These groups intend to facilitate (rather than completely control) the business nomination process. All prominent business organizations, including ones representing minority business, are intended to participate fully in the process.

Other PIC Members: Local elected officials must also appoint to the PIC representatives of:

- educational agencies (nominated by a variety of local education interests including private and proprietary schools);
- organized labor (nominated by recognized state and local labor organizations or appropriate building trades councils);
- rehabilitation agencies;
- community based organizations;
- economic development agencies; and

- the public employment service.

Appointment of Consortia PICs: The legislation retains the regular PIC nominations process but makes special provisions for PIC appointments when there are two or more general local governments in a service delivery area. (In a single jurisdiction SDA, the chief local elected official is responsible for making all appointments.) In multijurisdictional SDAs, the following rules apply:

1) when there is only one unit of local government with experience in administering job training programs (presumably as a former CETA prime sponsor), the chief elected official of the experienced unit will appoint all PIC members.

2) when there are two or more experienced local government units, the chief elected officials of these units will appoint PIC members according to an agreement negotiated between or among them. If no agreement can be reached, the Governor will make the appointments.

The legislation doesn't specify an appointment process for consortia in which there are no local governments with previous job training experience, but presumably the local elected officials would negotiate an agreement as in 2) above.

In providing for consortia SDAs composed of several local political jurisdictions, the Act does not clarify the process among local elected officials for reaching agreements on who will appoint the PIC membership, or approve the local job training plan. But such decisions on the public side must be resolved before local business organizations and other community interest can submit nominations lists for PIC appointment. The private sector likewise must decide who among the major business organizations in the consortia will coordinate and compile the single list of business member nominations for appointment to the PIC.

PIC Member Terms and Replacements: PIC members must be appointed for fixed and staggered terms and serve until their successors are appointed. Members may be removed for cause, but only in accordance with procedures adopted by the PIC board. Council vacancies must be filled using the same nomination and appointment process as for original members.

Size of the PIC Board: The size of the first PIC board established under the new legislation will be determined by the local elected official or officials (or by the Governor, if consortia elected officials cannot agree on this). Subsequently, the PIC board itself will determine the number of members for the PIC.

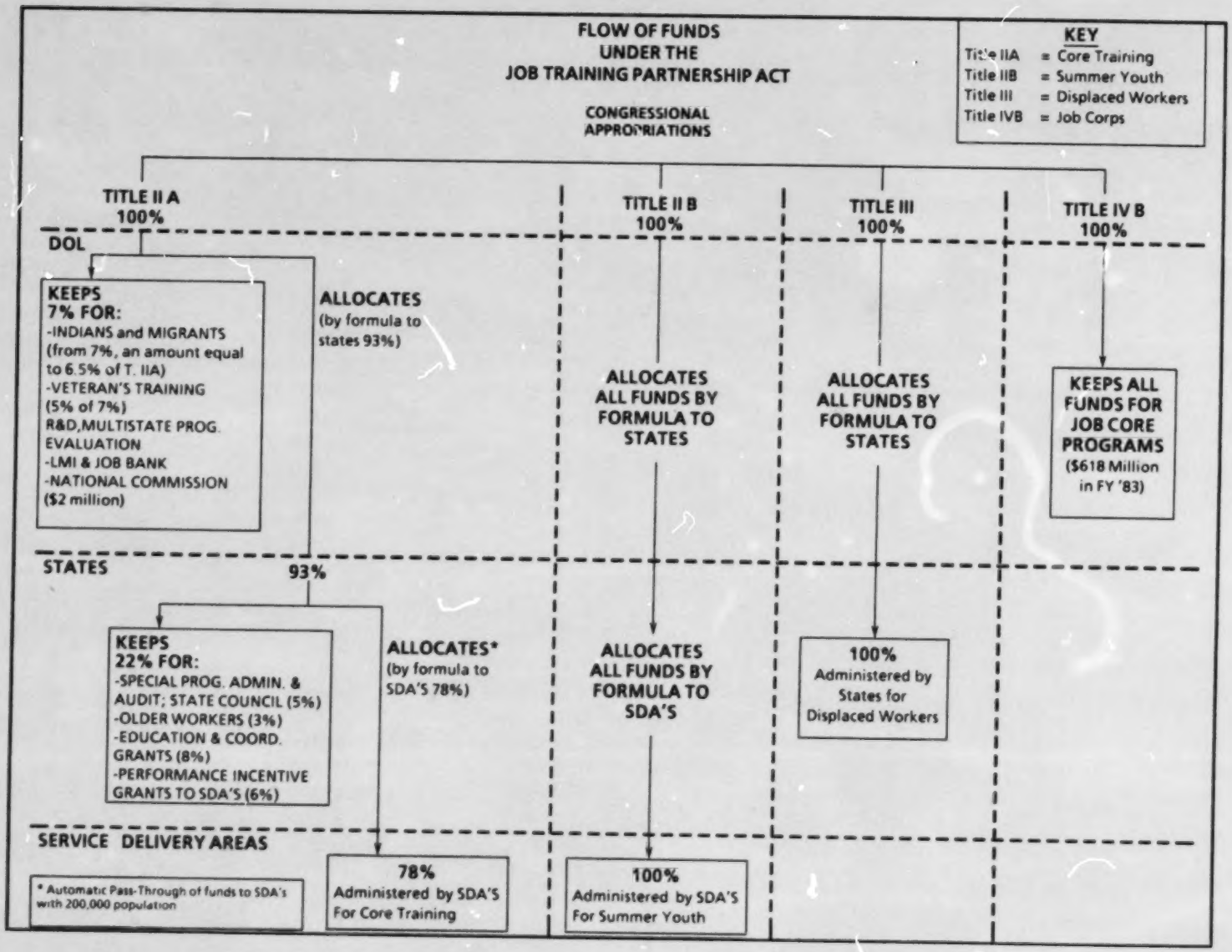
Certification By the Governor: Local elected officials must submit to the Governor information and supporting documentation on PIC composition and appointments in order for the PIC to be certified. It is expected that the Governor's review for certification will focus on the nominations and appointment process to determine its conformity with the requirements of the Act. Once this documentation has been submitted, certification must be made or denied by the Governor within 30 days.

Selection of PIC Chair: Within 30 days after a PIC is certified by the Governor, the appointing local elected official(s) will convene the PIC board, which will then elect a chairperson from among the business members, develop operating procedures, and proceed to conduct business under the partnership policies outlined in the next section of this paper.

The Act provides the option and authority for the PIC at the local level to be a strong independent entity. It is characterized as a different type of institution than the state council which is largely under the Governor's control. Business majority nominations for the PIC are controlled by local business organizations. The PIC controls its size, procedures, adn election of the chair. Its members serve established terms and cannot be removed or disbanded by local government.

Implications for the Transition: In order for the enhanced business role under the new legislation to be felt in local planning for FY 1984, it is critical for new PICs to be appointed, staffed and operating by Spring of 1983 at the latest. The legislation recognizes this by requiring DOL to publish final PIC establishment regulations by January 15, 1983 (with proposed regs due in mid-December of this year). DOL can be expected to include in these regs a deadline for appointment of new PICs that falls somewhere in the February-March period.

Many questions have been raised about whether existing PICs, especially in large urban areas where SDA boundaries are likely to remain the same as under CETA, can simply be reappointed as new PICs by local elected officials. The House-Senate conference agreement specifically eliminated this as a possibility (which had been included in the House bill) in order to ensure that prominent local business organizations be given control of the business nomination process. Based on the legislative language, current PIC members may become members of the new PICs only if their names emanate from the nominations process and are subsequently chosen as final appointments by the chief elected official.


FLOW OF FUNDS
UNDER THE
JOB TRAINING PARTNERSHIP ACT
CONGRESSIONAL
APPROPRIATIONS
KEY
Title IIA = Core Training
Title IIB = Summer Youth
Title III = Displaced Workers
Title IVB = Job Corps
TITLE II A
100%
TITLE II B
100%
TITLE III
100%
TITLE IV B
100%
DOL
KEEPS
7% FOR:
-INDIANS and MIGRANTS
(from 7%, an amount equal
to 6.5% of T. IIA)
-VETERAN'S TRAINING
(5% of 7%)
R&D,MULTISTATE PROG.
EVALUATION
-LMI & JOB BANK
-NATIONAL COMMISSION
($2 million)
ALLOCATES
(by formula to
states 93%)
ALLOCATES
ALL FUNDS BY
FORMULA TO
STATES
ALLOCATES
ALL FUNDS BY
FORMULA TO
STATES
KEEPS ALL
FUNDS FOR
JOB CORE
PROGRAMS
($618 Million
in FY '83)
STATES
93%
KEEPS
22% FOR:
-SPECIAL PROG. ADMIN. &
AUDIT; STATE COUNCIL (5%)
-OLDER WORKERS (3%)
-EDUCATION & COORD.
GRANTS (8%)
-PERFORMANCE INCENTIVE
GRANTS TO SDA'S (6%)
ALLOCATES*
(by formula to
SDA'S 78%)
ALLOCATES
ALL FUNDS BY
FORMULA TO
SDA'S
100%
Administered by
States for
Displaced Workers
SERVICE DELIVERY AREAS
* Automatic Pass-Through of funds to SDA's
with 200,000 population
78%
Administered by SDA'S
For Core Training
100%
Administered by SDA'S
For Summer Youth

## II. LOCAL PUBLIC/PRIVATE PARTNERSHIP AND PROCESS

The new job training legislation structures a local public/private partnership that is unique in two important respects:

1) It permits local options on fundamental aspects of program administration. Unlike most federal programs, no entity, public or private, is given presumptive authority to receive federal funds or administer programs; PICs, local governments, or third parties can perform either or both of these basic administrative functions.

2) It creates balanced roles for local public and private leaders in program planning and management. The PIC, in partnership with local governments, has overall policy and oversight responsibility for local programs. Agreement between the PIC and local elected officials is required on most major policy issues including:

   - o procedures for plan development
   - o selection of grant recipient
   - o selection of program administrator(s)
   - o final program plan and budget

In addition, the PIC is authorized to provide program oversight -- reviewing, monitoring and evaluating -- in accordance with PIC-developed procedures. PIC oversight activities are not circumscribed in the law by agreements with local governments. To carry out its functions the PIC has authority to hire staff, to incorporate, and to solicit and accept public and private funds.

Specific legislated public and private roles at each step of the local planning and implementation process are outlined below.

### Planning Steps

The new law requires a two-year job training plan for each service delivery area in order to receive program funding. (The full two-year planning cycle would not go into effect until July 1, 1984 -- see Transition section of this Guide.) The plan is to be developed according to procedures determined by the private industry council in accordance with agreements with local elected officials* in the delivery area. The specific sequence of major steps in the public/private planning process is as follows:

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* For the purposes of the planning process under this legislation, the term "chief local elected officials" means the following:

- o the chief elected official of the sole unit of general local government in the SDA, or
- o if there is more than one local government in the service delivery area, the individual or individuals selected by the chief elected officials of all units of general local government as their authorized representatives,
- o participating local governments are any general purpose political subdivision of a state which has the power to levy taxes and spend funds, as well as general corporate police powers.

Step 1 -- PIC review of current programs: Conference report language specifies that the PIC, after selecting staff to help it decide how to carry out its functions, should be given an opportunity to "review the operation of current training programs in the area and to formulate its general policy positions" prior to entering discussions or negotiations with local elected officials on plan development procedures.

Step 2 -- Determine PIC/local government agreement on planning procedures: PIC's and local elected officials will then reach an agreement or agreements regarding procedures for the development of the job training plan for the service delivery area. The law specifies that all or any part of the plan may be developed by:

- o the PIC
- o local government staff/agencies
- o other methods or institutions as provided in the PIC/local government agreement.

In essence, there are few restrictions on which entity or combination of entities actually staffs and directs the development of the local plan and budget.

Step 3 -- Designation of grant recipient and program administrator by the PIC in accordance with an agreement with local elected officials: The legislation and conference report language make clear that the designation of the grant recipient and the program administrator -- which may be separate entities -- does not have to take place as part of the up-front agreement on planning procedures. Since the appropriate designation of grant recipient and administrator will often depend on the content of the program plans, it may be appropriate to defer this decision until later in the planning process.

Step 4 -- Coordinate plan with other service delivery areas in same labor market: Where there are two or more service delivery areas in a single labor market area, the law reguires the plans of these SDAs to include provisions for coordinating certain aspects of programs including:

- o the assessment of labor market problems and needs that forms the basis for program planning
- o provisions ensuring each client access to training and employment opportunities throughout the entire labor market
- o coordinated or joint implementation of job development, placement and employer outreach activities.

A labor market area is defined in the legislation as: "an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such areas shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas or similar criteria established by a Governor."

This provision of the law was intended to facilitate labor market-wide planning and coordination of placement and training opportunities for participants who reside in an integrated economic area in which several otherwise independent SDAs operate programs. The enforcement of this provision may vary from state to state, but it should be noted that a governor may disapprove a local plan for not conforming to the provisions of the Act if such coordination between SDAs for these specific activities is not included in their plans. Although the language does not specifically mention the employment service, this provision might also be used to motivate coordination between multiple SDAs and area-wide employment service activities for placement and referrals.

Step 5 -- Draft proposed plan; publish and circulate for review and comment: The law requires that a proposed local plan, prior to submission to the Governor, must be published and circulated for review and comment 120 days before the beginning of the program year. (This requirement will be modified or eliminated for the 1983 transition year). Specifically, the plan must be made available to:

- o state legislatures
- o appropriate local educational agencies and other public agencies in the service delivery area
- o labor organizations in the area which represent employees having skills in which training is proposed
- o the general public.

Step 6: Finalize plan; approve plan by PIC and local elected officials; jointly submit to Governor: A final plan must be approved by the PIC and local elected official(s) and jointly submitted to the Governor by August 31, 1983 for fiscal year 1984, and 80 days before the plan goes into effect for succeeding planning cycles.

Step 7 -- Review and certification of plan by State Job Training Coordinating Council: Section 122(b)(4) of the Act says that the State Job Training Coordinating Council shall "advise the Governor and local entities on job training plans and certify the consistency of such plans with criteria under the governor's coordination and special services plan." Certification, however, is not the same as approval or disapproval of the plan. At the state level, only the Governor is vested with the authority to approve or disapprove local plans. If the state council does not certify the plan, the Governor must make a final determination regarding local compliance with state program coordination criteria. (See Section I, page 9 for a discussion of state coordination criteria).

Step 8 -- Governor's approval or disapproval of plan: Within 30 days after receipt, the Governor must approve or disapprove the local plan. The Governor can disapprove plans based only on the following criteria:

- o Failure to correct previous deficiencies in audits or non-attainment of performance standards
- o The local entity being proposed to administer the program does not have the capacity to administer the funds

- There are inadequate safeguards for the protection of public funds
- The plan fails to comply with federal law or regulations under this Act
- The plan does not comply with state coordination criteria as specified in the state plan.

The conference report strongly emphasizes that these are the only criteria against which local plans can be disapproved. The report states that "policy making responsibility is properly housed at the local level" and that "decisions concerning local priorities in relation to such issues as participant mix, training strategies, service deliverers, etc. remain solely within the purview of local decisionmakers...". The legislation "is not intended to confer upon the state any authority to review discretion with regard to policymaking at the local program level, provided it is exercised in accordance with the provisions of the Act."

The conference report goes on to clarify that the "authority for plan approval by the Governor is not intended to endow the state with any additional capacity to modify, restrict or expand upon the provisions of the Act, nor to affect the implementation of the Act except as provided for therein."

Most of the legislated criteria upon which a Governor may disapprove a local plan are clear and specific. However, the criteria for disaproval relating to whether a plan complies with the law or regulations under this Act leaves some room for state interpretation and enforcement of the Act's provisions. It is unclear to what degree states will be able to exercise this discretion, but questionable interpretations can be appealed to the Secretary of Labor.

Appeals, Petitions, and Resolution of Impasses

The law contains numerous provisions designed to provide checks and balances in the planning process. These include:

1) A process whereby a Governor's disapproval of a local plan can be appealed to the Secretary of Labor. It is presumed that the PIC and local elected officials would jointly appeal; the Secretary of Labor must render a decision on the appeal within 45 days.

2) A process for resolving an impasse between the PIC and local elected officials on the local plan. As the conference report explains, Congress "does not intend that disadvantaged individuals should be penalized by lack of training opportunities because public and private sector representatives cannot reach agreements." The law, therefore, provides that either party may request the Governor to mediate, and, if no agreement can be reached, the area will be merged by the Governor into a larger service delivery area or subdivided among other areas. Such revised areas may be designated without regard to the timetables or other constraints that otherwise apply to service delivery area designation. The Congress

was "guided by the principle that there should be no incentive for either party not to reach agreement".

3) A process for interested parties to petition the Governor for disapproval of the local plan under the following conditions:

- o the party can demonstrate that it represents a substantial client interest, and
- o the party took steps to present its views prior to plan submission, and
- o the request for disapproval is based on a violation of statutory requirements.

Parties are allowed 15 days to petition the Governor after the local plan is submitted. The Governor will be given an extra 15 days (for a total of 45 days) to approve or disapprove the local plan in question if such a petition is filed. In general, the law substantially limits the grounds and terms upon which petitions can be filed.

Plan Modifications

The law requires that "if changes in labor market conditions, funding, or other factors require substantial deviation from an approved job training plan, the PIC and appropriate chief elected official(s)...shall submit a modification" of the plan and budget to the Governor. It can be assumed that the process for local plan modification is analogous to the process for the initial plan development in the following respects:

- o a modification would require the approval of the PIC and local elected officials and would have to be jointly submitted by them to the Governor
- o a modification would have to be published for public review 80 days before it goes into effect
- o the Governor must approve or disapprove the modification within 30 days subject the the same conditions and limitations which apply to the initial plan.

Special Provisions Relating to the Transition

Certain provisions of the law apply to the unique situation faced by newly appointed PICs in planning for Fiscal Year 1984 --October 1, 1983, through June 30, 1984 -- a nine month start-up period prior to the changeover to a two-year planning cycle. These include:

1) PIC Funding for Planning: After the new PIC is certified by the governor, it may be granted up to $80,000 start-up money by DOL (for use in 1983) from discretionary funds appropriated under the new Act or CETA. PIC funding for subsequent years would be

provided in accordance with the local program plan and budget (as would any funding or staffing for local governments).

2) Planning Cycle: The law specifies that the initial plan will apply only to the nine-month period from October 1, 1983, to June 30, 1984, not a two-year period as in subsequent planning cycles.

3) Planning Time Requirements: For the fiscal year 1984 planning period, the various time limits pertaining to the planning process are not applicable except that local plans must be submitted to the Governor by August 31, 1983. All planning procedures, however, will be required in chronological order as specified in the law. This provision applies mostly to timing requirements for local publication and circulation of the proposed plan, etc.

4) Interim Procedures: The law allows the agreement between the PIC and local elected officials to include special interim procedures for the nine-month period which are not subject to the new requirements for selecting service deliverers (See page 25).

5) Performance Standards: Though the law requires that initial performance standards be developed for the nine-month period starting in October 1983, "no service delivery area shall suffer a penalty for not meeting such standards during that initial program period".

Statewide Service Delivery Area: The law specifies an altered planning process for cases in which the service delivery area for the program is an entire state -- that is, where there are no substate service delivery areas. The law provides that:

- The plan (or modification) shall be submitted to the Secretary of Labor for approval, not the Governor.

- The Secretary of Labor shall have the same authority for plan review and approval as the Governor has in other cases.

The provision does not apply to balance of state (BOS) operations, which are not considered to be statewide because they do not include the entire state. In general, balance of state service delivery areas are treated exactly as any other local service delivery areas for the purposes of this Act. (Note that the state Job Training Coordinating Council cannot operate BOS or any other programs.)

Funding Carryover: The new law appears to specify a qualified 100% carryover policy for a period of two years. The law states: "Funds obligated for any program year may be expended by each recipient during that program year and the two succeeding program years and no amount may be deobligated on account of a rate of expenditure which is consistent with the job training plan." This facilitates the multi-year planning process envisioned by the legislation. Note that the plan requires not only a two year budget but also "any proposed expenditures for the succeeding two program years" --a four year time span. (See page 20).

Appropriations for fiscal year 1984, however, cannot be carried over two full years--this money can be carried over only one succeeding year (extending from July 1, 1984, to June 30, 1985).

Plan Content

The law requires that each local plan include the following elements:

1. Identification of the entity or entities which will administer the program and be the grant recipient of funds from the state

2. A description of the Title II services to be provided, including the estimated duration of service and the estimated training cost per participant

3. Procedures for identifying and selecting participants and for eligibility determination and verification

4. Performance goals established in accordance with national performance standards

5. Procedures for selecting service providers which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards

6. The budget for two program years and any proposed expenditures for the succeeding two program years, in such detail as is determined necessary by the local entity selected to prepare this portion of the plan

7. A description of methods of complying with the coordination criteria contained in the Governor's coordination and special services plan

8. If there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of individual service delivery area programs, including--

   a. assessment of needs and problems in the labor market that form the basis for program planning

   b. provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market

   c. coordinated or joint implementation of job development, placement, and other employer outreach activities

9. Fiscal control, accounting, audit and debt collection procedures to ensure the proper disbursal of, and accounting for, funds received under Title II

10. Procedures for the preparation and submission of an annual report to the Governor which shall include --

    a. a description of activities conducted during the program year

    b. characteristics of participants

    c. the extent to which the activities exceeded or failed to meet relevant performance standards.

Management Functions

The new law is unusual in that it defines very discrete management and administrative functions for local entities which include:

- o serving as grant recipient,
- o serving as program administrator,
- o operating programs, and
- o overseeing program performance and management.

Provisions relating to each are outlined briefly below.

Grant Recipient: The local grant recipient, to be designated by agreement between the PIC and chief local elected officials, is the legal entity which receives funds directly from the state and is held ultimately liable for federal funds. Specifically, it is the grant recipient who will be required to "repay to the United States amounts found not to have been expended in accordance with this act." Though the grant recipient can be a separate entity from the program administrator, the law requires that the recipient " prescribe and maintain a management information system and make reports on operations and expenditures as prescribed by the Secretary of Labor."

The grant recipient can be a PIC, a unit of general local government (or agency thereof), a private non-profit entity, or any other agreed upon entity. Though the law does not explicitly say so, it is probably the intent that only one entity can be the grant recipient for each service delivery area.

Program Administrator: The local program administrator, to be designated by agreement between the PIC and local elected officials, can be the same entity as the grant recipient or a separate entity. Though neither the law nor the conference report elaborate on the role of the administrator (as distinct from the grant recipient) it is presumed that the administrator will be responsible for the day-to-day administrative operations of local programs. The administrator, even if different than the grant recipient, is also expected to maintain a management information system and make reports on operations and expenditures as prescribed by the Secretary of Labor.

Like the grant recipient, the administrator can be a PIC, a unit of general local government, a private non-profit entity, or any other agreed upon entity.

Local Program Oversight: The law clearly intends for local program oversight to occur in several respects:

1) General Policy Oversight — The law specifies that the PIC shall be responsible for exercising oversight of activities under the local job training plan in partnership with units of general local government. Furthermore, the law authorizes the PIC to provide oversight — defined as reviewing, monitoring, and evaluating — in accordance with procedures established by the PIC. The PIC oversight function is not intended to be circumscribed by agreement with local elected officials. In addition, the PIC must be given access to information concerning program operations in order to carry out its oversight function.

   PIC oversight, however, is not intended to include "taking administrative actions — such as termination of contracts — on the basis of oversight findings." (Whether the PIC could do this would be part of the overall PIC/local elected official agreement defining roles and functions for each partner.) Nor does the law intend to preclude oversight functions from also being carried out by local governments. The conference report states that "local elected officials may conduct such oversight as they deem necessary."

2) Fiscal and Administrative Oversight — The law clearly intends that the grant recipient and, to a lesser extent, the program administrator, exercise oversight of programs to ensure compliance with the law and to keep proper track of expenditures and operations as required by the Secretary of Labor. Specific administrative oversight functions for which the grant recipient is responsible include:

   - o establishing a system for the award and monitoring of contracts which contain standards for ensuring accountability and which contain clear, unambiguous goals and obligations for contractors
   - o monitoring the implementation of contracts, including audits at reasonable intervals
   - o taking prompt and appropriate corrective action upon becoming aware of violations
   - o setting up a management information system and reporting on expenditures and program operations.

Selection of Service Providers/Contracting

The local job training plan is required to specify local procedures for selecting service providers — a specific selection process is not mandated in federal law. The local selection process, however, must take into consideration the following criteria specified in the law:

- The primary consideration in selecting service providers shall be the demonstrated effectiveness of the organizations in delivering comparable or related services, in terms of the likelihood of meeting performance goals, cost, quality of training and characteristics of participants

- No occupational skill training program shall be funded unless the level of skills in the program are in accordance with guidelines established by the private industry council

- Proper consideration should be given to community based organizations as service providers

- Appropriate education agencies in the area should be given an opportunity to provide services unless the administrative entity demonstrates that alternate organizations would be more effective

- In general, programs should not duplicate facilities or services available in the area from federal, state or local sources unless it is demonstrated that an alternate would be more effective.

The law contains few specific provisions regarding local contracting procedures except for those relating to the oversight function of the grant recipient and administrative entities. (See page 22).

PIC Decisions Not Subject to Local Elected Official Approval

The law authorizes numerous specific functions for private industry councils which are not circumscribed by any agreements with or approval by local elected officials. Most of these have been mentioned elsewhere in this text but they are summarized below:

Elect PIC Chair: The conference report specifies that the intent of the law is for the PIC to elect its own business chairperson once it has been certified by the Governor.

Determine PIC Size: After the initial year (during which local elected officials set the size of the PIC), the PIC board will determine its own size.

PIC Member Removal: Only the PIC board is authorized to develop procedures for removal of members prior to the end of their fixed terms.

Provide Oversight: The law authorizes the PIC to provide oversight of programs under the job training plan in accordance with its own procedures.

Incorporate: The law authorizes the PIC to incorporate; this decison "is a matter for the sole determination of the PIC".

Hire staff: The PIC may hire staff independent of agreements with local elected officials. This authority is not unlimited, however. The PIC's budget must be in accordance with the job training plan which must be approved by the PIC and local

elected officials. (Alternatively, the use of funds for local government staff must be approved by the PIC.)

Solicit and Accept Contributions/Grants: The PIC may solicit and accept contributions and grants from public and private sources without reference to agreements with local elected officials.

Establish Guidelines for Levels of Occupational Skills Training: The PIC is responsible for establishing guidelines for occupational skill training. Procedures for establishing guidelines are left up to the PIC to work out. Occupational skills training programs cannot be funded unless they are in accordance with the PIC guidelines.

Summary of PIC/Local Government Options

The new job training law provides PICs and local governments a very wide range of options with respect to program planning and operation. The chart on the following page summarizes those options with respect to the entities which can be designated to perform key roles.

## SUMMARY OF PIC/LOCAL GOVERNMENT OPTIONS

| | Prepare Plan | Receive Funds | Administer Program | Deliver Services | Oversee Programs |
|---|---|---|---|---|---|
| PIC | X | X | X | X | X (not subject to agreement) |
| Local Government | X | X | X | X | X (not subject to agreement) |
| Private Non-Profit | X | X | X | X | |
| Other Agreed Upon Entities | X | X | X | X | |
| Any Combination Of The Above | X | | | X | |
| Other: | | | | | Grant recipient and program administrator have oversight responsibilities |

## III. AUTHORIZED ACTIVITIES AND USE OF FUNDS

Major changes will be brought to the design and content of training programs under the new legislation. In contrast to CETA, the new law places more emphasis on: direct use of funds for training with specific limits on income support; serving welfare clients and out-of-school youth; local ingenuity and flexibility in designing the appropriate mix of services to achieve program results; and uniform eligibility criteria.

### Client Eligibility

Basic Criteria: Persons participating in job training programs under Title II (regular adult and youth as well as summer youth) must be economically disadvantaged having family incomes at or below either the official poverty level or 70% of the lower living standard income level. Also eligible as economically disadvantaged are persons receiving cash welfare payments under federal, state or local programs; food stamp recipients; foster children receiving state or local government cash support; and handicapped adults whose own income meets economically disadvantaged criteria but whose family income might not. In general the basic criteria for client eligibility correspond closely to the definition of "economically disadvantaged individuals" under CETA. CETA, however, varied specific criteria for different types of training programs while the new law applies the same criteria to all local training programs (except for the dislocated worker program).

10% Window: Up to 10 percent of the participants in all regular adult and youth programs (Title II, Part A) may be considered eligible regardless of income, if they have encountered other barriers to employment. Examples of such individuals include (but are not limited to): those who have limited English-language proficiency, displaced homemakers, school dropouts, teenage parents, handicapped, older workers, veterans, offenders, alcoholics, or addicts.

### Service Priorities

40% of Funds for Youth: At least 40 percent of the Title II, Part A funds available for programs in an area (not including summer youth jobs) must be spent on youth age 16 through 21. Depending on the ratio of economically disadvantaged youth and adults in a service delivery area compared to the national ratio (which will be published by the Secretary of Labor), the 40 percent requirement will be reduced or increased proportionately.

AFDC Recipients and School Dropouts: Eligible high school dropouts and persons receiving payments under the Aid to Families with Dependent Children (AFDC) program who are able to work (such as those who are required to or have registered for the Work Incentive program), must be served on an equitable basis, taking into account their proportion of the eligible population in the area. The intent is not to impose a strict auditable quota for AFDC recipients and school dropouts. Conferees were trying to avoid the rigidities which accompanied the "significant segments" provisions of CETA. Regulations will determine the extent to which there are any specific requirements in this regard.

Public OJT: In each service delivery area, the number of individuals in public on-the-job training positions cannot exceed the ratio between government and private employment in the area.

Limitation on Certain Costs

The Congress and the Administration, in an effort to maximize the amount of funds under the Act devoted to direct training activities for participants, have required a 70/30 percent split of training to non-training costs. 70 percent of each service delivery area's allocation under Title II, Part A, must be spent on training. The remaining 30 percent of funds is divided between a maximum of 15 percent for administrative costs and 15 percent for supportive services, wages, and allowances.

The legislation provides a broad range of supportive services and allowances which can be provided to participants on a needs basis, particularly for those individuals who are unable to participate in a training program due to the additional expenses. The provisions are designed to accomodate certain local service areas which, due to unique economic conditions or characteristics of the population they plan to serve, will require flexibility in the 15 percent cost limitation on supportive services, wages and allowances. To address extraordinary needs, the law requires the Governor to waive the 15 percent limitation on supportive services, wages, and allowances if certain conditions are met and the waiver is requested in the local plan. The following outlines in more detail what is included in the 70% and the 30% and how the waiver works.

Under the 70% of Funds for Training:

- Costs of all direct training activities for participants (see authorized activities list on page 32)
- Costs of program support (such as counseling) which are directly related to the provision of education or training (these will be defined in DOL regulations)
- Any administrative costs, attributed to the development of customized training in which there is an employer commitment to employ the individual(s) upon successful completion of that training
- 50% of any costs for work experience if such work experience is:
  - not more than 6 months in duration
  - combined with a classroom or other training program (specified in a preemployment contract or meeting established academic standards)
  - non-renewable for participants who have had work experience enrollment
  - paying wages not in excess of the prevailing entry-level wage for the same occupation in the same labor market area
- 100% of the costs for "try-out employment" for youth under the following conditions:
  - No assignment can last longer than 250 hours

-- Public and private nonprofit worksites can be used only if for-profit worksites are not available

-- Vacancies in try-out positions cannot be refilled if the previous participant completed the try-out phase and was not hired by the employer

-- Positions must be ones for which participants would not usually be hired because of lack of experience or other barriers to employment

Under the 30% for Non-Training Costs

o 15% maximum of a service delivery area's allocation may be used for administrative costs. (This limitation does not include administrative costs directly related to the provision of education or training or those attributed to developing customized training, as noted earlier).

o 15% of an area's allocation may be used for:

-- supportive services necessary to enable an eligible individual to participate in training, which may include transportation, health care, special services and materials for the handicapped, child care, meals, temporary shelter, financial counseling, and other reasonable expenses (may be provided in-kind or through cash assistance)

-- the other 50% of any work experience which is linked to training (note 70% list above)

-- the total costs of any work experience which is not linked to training as noted above

-- all needs-based payments (stipends or allowances) necessary for participation, determined under any locally developed formula or procedure.

Waiver of the 15% Cost Limitation

A waiver of the 15 percent limit on wages, supportive services and allowances must be granted by the Governor for expenditures made in excess of the limit in any service delivery area, if:

1) the waiver request is initiated by the private industry council (PIC);

2) the request with justifications is contained in the job training plan for the area (or a modification of the plan);

3) supportive services provided in the local plan are not duplicative of services available to the participant without cost from any other public or private source;

4) the area plan can demonstrate that the need for the waiver is not due to administrative overages;

5) excess costs are due to one or more of the following conditions:

   a. unemployment in the service delivery area (or that portion of the area in which services resulting in excess costs are to be delivered) is 3 percentage points above the national average, and the ratio of private employment to population is below the national average;

   b. the plan proposes serving a disproportionately high number of persons from groups requiring exceptional supportive services costs (e.g. single heads of households with dependent children, ex-offenders, handicapped);

   c. the cost of providing necessary child care exceeds half of the area's 15% limit for supportive services, wages, and allowances;

   d. the cost of providing necessary transportation exceeds one-third of the area's 15% limit for supportive services, wages, and allowances;

   e. a substantial number of enrollees are in training programs of 9 months or more duration.

The Act specifically states that no area receiving a waiver of the 15% limitation is exempt from meeting national performance standards. The continued application of performance standards regardless of a waiver on the use of funds for supportive services may affect not only a local SDA's decision to apply for one but also the Governor's decision to approve a waiver. Administration sources have suggested that this provision may be the most significant check-and-balance on the use of the waiver. It is expected that waivers may be granted more widely for the 9-month plan efective from October 1, 1983, to June 30, 1984, since performance standards will not apply to this period and some accomodation may be necessary to transition to new program designs. However, enforceable performance standards will apply to the first 2-year plan effective from July 1, 1984, to June 30, 1986.

The waiver is applicable for up to one year. If after one year a waiver is still necessary, the PIC can initiate a new request and, with the local government, must submit an adjusted job training plan including the required justifications to support a second one-year waiver. It should be noted that the waiver applies only to documented excess costs in the job training plan.

All of the conditions listed above for granting a waiver are intended to eliminate its indiscriminate use. However, House and Senate conferees said that the waiver may

encourage PICs to extend greater service to those who might benefit most from training but who can least afford the extra costs of child care, transportation, etc. The waiver is also intended to relieve economic pressures on service areas in severely depressed or rural parts of the country.

Adult/Youth Program Activities

Funds for regular adult and youth training programs under Title II, Part A, are provided in a single grant, with no legal requirements for particular types of youth or adult activities other than the mandate to spend at least 40 percent on youth under age 22. Specific youth programs are outlined in the Act, but only as examples or program models developed on the basis of experience in previous youth demonstration programs.

Nothing in the following list of program options for Title II, Part A, should be viewed as mandatory or as limiting local flexibility to mix and adapt the programs to local conditions and specific needs in the service delivery area.

Authorized services include:

1) job search assistance

2) job counseling

3) remedial education and basic skills training

4) institutional skill training

5) on-the-job training (payments to employers for OJT may average 50 percent of the wages paid by the employer to participants in such training)

6) advanced career training programs which provide a formal combination of OJT and institutional training and internship assignments which prepare persons for career employment

7) training programs operated by the private sector (including those operated by labor organizations or by consortia of private sector employers) using private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply

8) outreach to make individuals aware of and encourage the use of employment and training services

9) specialized surveys not available through other labor market information sources

10) programs to develop work habits and other services to help persons obtain and retain employment

11) supportive services necessary to enable persons to participate in the program and to assist them in retaining employment for 6 months after completion of training

12) upgrading and retraining

13) education-to-work transition activities

14) literacy and bilingual training

15) work experience

16) vocational exploration

17) attainment of certificates of high school equivalency

18) job development

19) employment generating activities to increase job opportunities for eligible individuals in the area (not to be used as a substitute for economic development activities or for funds available for similar activities under other federal programs)

20) pre-apprenticeship programs

21) disseminating program activity information to employers

22) use of advanced learning technology for education, job preparation, and skills training

23) development of job openings

24) on-site industry-specific training supportive of industrial and economic development

25) follow-up services with participants placed in unsubsidized employment (those not considered supportive services)

26) programs coordinated with other federal employment-related activities

27) needs-based payments necessary for participation according to a locally developed formula or procedure

28) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of training.

Exemplary Youth Programs

In addition to the services for youth and adults listed above, each local job training plan may include, at the option of those responsible for its preparation, one or more of the exemplary youth programs described below, each of which may be modified by the plan to accomodate local conditions:

Education for Employment Program: This program model is for economically disadvantaged youth who have not attained a high school diploma or who have educational deficiencies. Priority is given to high school dropouts.

The program may provide a network of learning centers offering individualized or group instruction in convenient locations such as schools, neighborhood organizations, libraries, or other sites including mobile vans in rural areas. The curricula must be designed to prepare the student to meet state and local general education diploma and basic academic competency requirements.

In selecting service providers for this program, priority must be given to previously funded in-school and community based organization projects which are both cost-effective and of demonstrated success.

Preemployment Skills Training Program: This program model is for youth age 14 -21 providing up to 200 hours of skill training instruction and activities. Priority is given to individuals who do not meet established levels of academic achievement but who plan to enter the full-time labor market upon leaving school. Services may include:

- assessment, testing, and counseling
- occupational career and vocational exploration
- job search assistance
- job holding and survival skills training
- basic life skills training
- remedial education
- labor market information, and
- job seeking skills training.

Entry Employment Experience Programs: This program model is for youth who: (1) have completed preemployment skills training or its equivalent; (2) have not recently held a regular part-time or summer job (this requirement may be waived based on criteria in the plan); and (3) are enrolled in a secondary school or an institution offering a certified high school equivalency program. Priority is given to youth who do not plan to continue with postsecondary education.

Entry employment experiences may be for up to 20 hours weekly during the school year or full-time during the summer, for a total not to exceed 500 hours for any individual. Entry employment experiences may be one of the following three types:

1) Full-time employment in public and private nonprofit agencies during the summer and on a part time basis when combined with education and training activities. These jobs must provide community improvement services that compliment regular local expenditures.

2) Tryout employment at private for-profit worksites (public sites only when others are not available). Compensation instead of wages is paid by the grant recipient. The duration of such employment cannot exceed 250 hours. The job positions must be ones for which participants would not usually be hired (because of lack of experience or other barriers to employment). Vacancies cannot be refilled if the previous participant completed the tryout employment but was not hired by the employer. (Compensation for this type of entry employment experience may be counted as a direct training expense under the 70/30 split of funds, if all the above conditions are met.)

3) Cooperative education programs which coordinate educational programs with work in the private sector.

School-to-Work Transition Assistance Program: This program model is for high school seniors planning to enter the full-time labor market upon graduation, and for school dropouts with followup as immediately as possible after leaving school. Priority is given to seniors in high schools having a predominance of students from economically disadvantaged families. Transition services may include:

— provision of occupational information

— short-term job search assistance

— job clubs

— placement and job development

— followup.

Seniors and dropouts in need of training may be referred to other youth or adult programs under the Act, or to the Job Corps.

Summer Youth Employment and Training Program

Part B of Title II of the Act provides a separate authorization for youth job and training programs during the summer months, with funds distributed using the same formula as the Part A adult/youth training programs. The summer program is for economically disadvantaged youth age 16 - 21. Youth age 14 or 15 can be eligible, if appropriate and provided for in the local job training plan.

Summer youth funds, 100 percent of which must be allocated by states to local SDAs, may be used for remedial education, institutional and on-the-job training, work experience, counseling, outreach and enrollment, referral and placement, job search and job club activities, and any other job or training activity designed to give employment to eligible individuals or prepare them for, and place them in, employment.

Part B funds may also be used for supportive services and wages according to standards established in the local plan. None of the 70/30 limitations for regular youth/adult programs under Part A are applicable to the Part B summer youth program.

Summary of Implications for Training Programs

Training, not Income Support. The Act seeks to limit the percentage of funds allocated to non-training expenditures. Last year over 80% of CETA (Title II) funds were spent on wages, stipends, support services and administration. Under the new law little more than 30 percent of program costs will be allowed in most communities for activities which are not directly tied to training programs.

Welfare Clients and School Dropouts. The Act is likely to target more job training services to welfare clients and school dropouts. Performance standards stress reduced welfare dependency, giving program operators more credit for serving welfare recipients than other clients. The Act also requires that welfare recipients and school dropouts be served roughly in proportion to their percentage of economically disadvantaged persons 16 years of age or over in the area. For most areas, this will mean increased services to these client groups as compared to past years.

Youth. The Act requires that at least 40 percent of the funds be spent on youth activities for both in-school and out-of-school youth which begin to prepare youth for employment but do not necessarily aim to place them in permanent jobs. The new law is more specific than CETA regarding the expected outcomes of youth programs but appears to be less restrictive than CETA in terms of the number of youth which must be served. Almost 65% of CETA clients in 1981 were under the age of 22. Performance standards for youth activities are based on the achievement of employment competencies, which is likely to mean that specific performance benchmarks be built into youth training. Try-out employment and work experience programs must be closely linked to education and skill training. These new requirements will provide greater opportunity to link job training programs with local school systems to facilitate the school-to-work transition.

Customized and On-the-Job Training. The Act seeks increased employer involvement throughout the training process. Program operators and policy makers are encouraged to develop customized training and OJT programs for specific firms or groups of firms with similar skill needs. The law does not require such activity but promotes it indirectly by:

- Performance standards that give credit for higher skilled, quality job placements for higher retention rates. This would be easier to achieve in customized training and OJT programs.

- Permitting the costs of developing customized training programs, such as staff expenses, to be counted as training rather than administrative expenses.

Employment Generating Services. The Act permits the use of funds for EGS activities but requires that they contribute to increased job opportunities for eligible participants. This provision would clearly preclude such activities as designing training programs to help retain well paid workers at auto or steel plants. Economic development, marketing, labor market analysis, and job development activities, however, will continue to be eligible EGS activities if local operators can demonstrate intended benefits for disadvantaged individuals. Regulations will determine exactly how restrictive EGS requirements will be.

Other provisions of the Act will influence local ability to spend unlimited funds on EGS activities rather than direct training, particularly performance standards. EGS activities which do not contribute to job placements within one year could be discouraged by these standards.

On the other hand, the new law is, in one important respect, much less restrictive than CETA. EGS had been limited to 30% of Title VII funds under CETA. This represented only 2 to 3 percent of total CETA expenditures. No such cap on EGS expenditures is expected to apply to the new program.

Upgrading/Retraining

Though the new law allows upgrading and retraining programs, client eligibility appears to be more restricted than Title IIC of CETA (under which upgrading and retraining were authorized). Title IIC authorized upgrading and retraining services for "individuals operating at less than their full skill potential, primarily those in entry level positions or positions with little normal advancement opportunities." The new law would allow upgrading and retraining only for individuals qualifying under the basic eligibility criteria or the 10% eligilibity waiver. (See page 26). However, participants under the 10% eligibility waiver must have "other barriers to employment". It is likely that determination of "other barriers to emplcyment" will be left to the local PIC in designing programs and not spelled out in federal regulations.

## IV. PERFORMANCE STANDARDS, INCENTIVES AND SANCTIONS

The new legislation departs significantly from CETA in emphasizing program performance criteria in management and de-emphasizing regulatory compliance to achieve the desired results. Specific principles relating to the new "performance, not process" philosophy include:

- Seeing program funds as "investments" -- upon which a healthy return should be realized — not as expenditures, forever lost.
- Emphasizing the quality of training and job placements, not just the quantity of placements.
- Emphasizing training services to reduce welfare dependence.
- Rewarding exemplary performance; sanctioning poor performance.

### Performance Standards

Performance Standards for Adult Training: The basic "return on investment" of federal funds is to be measured by: 1) increased employment and earnings of participants and, 2) reduced welfare dependency. In order to measure these factors the Secretary shall prescribe performance standards. These standards may include the following elements -- the law does not explicitly require each, nor does it exclude the possibility of other measures:

- placement in unsubsidized employment
- retention in unsubsidized employment
- increase in participant earnings (over a specified base period) including hourly wages.
- reduction in the number of individuals and families receiving cash welfare payments and the amounts of such payments.

The Secretary must also prescribe performance standards "relating gross program expenditures to various performance measures" in order to quantify, in some manner, the program's "return on investment." In addition, the standards must contain provisions governing:

- the base period prior to program participation that will be used for measurement purposes
- a representative period after termination from the program that is a reasonable indicator of post-program earnings and cash welfare payment reductions (this will probably fall in the 3 to 6 month range)
- cost-effective methods for obtaining necessary data.

The new law authorizes access to state employment security records, Federal Insurance Contributions Act (FICA) records, state Aid to Families with Dependent Children (AFDC) records, statistical sampling techniques, and "similar records or measures".

Performance Standards for Youth Training: Youth performance standards shall include the "appropriate utilitization" of adult performance measures, plus:

- o attainment of employment competencies recognized by the Private Industry Council
- o completion of elementary, secondary or post-secondary school, or the equivalent
- o enrollment in other training programs, apprenticeship programs or the Armed Forces.

Again, these performance standards must relate "gross expenditures to various performance measures."

Timetable: Six months after the enactment of this law, the Secretary is required to establish initial performance standards based on data accumulated under CETA and other sources. These initial standards will apply to the nine-month period from October 1, 1983, to June 30, 1984. No service delivery area, however, "shall suffer a penalty for not meeting such standards during that initial program period."

By January 31, 1984, the Secretary shall prescribe performance standards for the first two program years. (The law states the "first program year," but goes on to say that the Secretary cannot modify the standards more often than every two program years).

Modifying/Adjusting Standards for Local Conditions: The law provides that each Governor may prescribe variations in the standards based on: 1) economic, geographic, and demographic factors in the state and, 2) client population characteristics and types of planned training services within substate service delivery areas. The Governor's prescribed variations, however, must be established within the parameters established by the Secretary of Labor. Furthermore, the law provides that the National Commission for Employment Policy shall advise the Secretary in the development of the parameters for variations in the standards. Such parameters are likely to include standardized methods for adjusting performance standards to take into consideration state and local economic, social, demographic and other characteristics.

Corrective Actions/Sanctions: The law provides for the following corrective actions and sanctions for service delivery areas that fail to meet the performance standards. After failure for one year, the governor is mandated to provide technical assistance to the service delivery area. After failure for two years, the Governor is mandated to "impose a reorganization plan which may:

- o restructure the PIC
- o prohibit the use of certain service providers

- o select an alternate entity to administer the program which must be
  - — a newly formed PIC, or
  - — any agency jointly selected by the Governor and the chief elected official of the largest unit of local government in the area
- o make other changes as the Governor deems necessary to improve performance.

Implications for Transition: More than in most other aspects of the new legislation, the development of performance standards is a regulatory issue, to be determined by DOL staff. Initial standards will be prescribed by the Secretary six months after the enactment of the law. The full complement of sanctions and final performance measures, however, will not really be developed until January 31, 1984 and will not go into effect until July 1, 1984 -- the beginning of the first full program year under the new legislation.

Performance Incentives

The new law also provides for the reward of exemplary program performance. Specifically, the law reserves for each Governor, 6% of each state's Title II, Part A funding for incentive grants to local programs exceeding performance standards. The law requires that the incentive grants be distributed in equitable proportions "based on the degree by which the service delivery areas exceed their performance standards." The Governor may also choose to use a portion of the money to provide technical assistance to service delivery areas which fail to exceed their performance standards.

## V. AUDITING, MONITORING, AND REPORTING

Fiscal Controls, Audits

Each state is required to establish fiscal control and accounting procedures necessary to assure accurate disbursal and accounting for federal funds under the Act. The federal government must issue guidance to the states for the proper performance of audits, and must review the state-established procedures.

Two-Year Audit: At least once every two years, the state must conduct an independent audit of each recipient of funds in its jurisdiction. If the audit results show a substantial violation of a specific provision of the Act, the Governor can issue a notice revoking an approved local plan. The notice can be appealed to the Secretary. The Governor must withdraw the notice if appropriate corrective action has been taken.

Repayment of Misspent Funds: Any recipient will be liable to repay to the federal government any amounts not spent in compliance with the Act. The Secretary has the discretionary authority to offset the amounts owed against any new appropriation allocated to the recipient. But no action can be taken before notice and an opportunity for a hearing is given to the recipient.

Recipients also are liable to repay amounts owed from funds other than those received under the Act if it is determined that the misexpenditure of funds was due to willful disregard of the law, gross negligence, or failure to observe accepted standards of administration. This language appears to be considerably more lenient than the CETA law which held prime sponsors fully accountable for all misspent funds.

In determining whether to impose any sanction against a grant recipient for violations by a subgrantee the Secretary must first examine whether the recipient has:

1) established and followed an appropriate system of awarding and monitoring contracts with subgrantees which includes acceptable standards of accountability;

2) entered into a written contract with the subgrantee which establishes clear goals and obligations in unambiguous terms;

3) acted with "due diligence" to monitor the implementation of the contract;

4) taken prompt corrective action upon becoming aware of any violation.

If the recipient has complied with these requirements, the Secretary may waive imposing sanctions on the recipient, and may impose them directly upon the subgrantee for violations of the Act. Again, this language appears to be less worrisome for the responsible grant recipient than the expired provisions of CETA which in all circumstances held the grant recipient legally responsible for subgrantee violations.

In emergency situations, the Secretary may terminate or suspend financial assistance to a recipient to protect funds and ensure proper operation of programs. The recipient must be given prompt notice and an opportunity for a hearing within 30 days.

Administrative Adjudication

Any applicant denied funding or any recipient under corrective action or sanction imposed by the Secretary may request a hearing before an administrative law judge of the Department of Labor. The decision of the administrative law judge will be final unless, within 20 days, the dissatisfied party files exceptions to the decision with the Secretary. The administrative law judge decision remains the final decision of the Secretary unless, within 30 days of filing, the Secretary issues notice that the case is accepted for review, and decides differently within 180 days of acceptance.

Judicial Review

Any party dissatisfied with the Secretary's decision may have the final order reviewed in the U. S. Court of Apeals, if filed within 30 days of the Secretary's decision.

Monitoring

Overall responsibility for monitoring program implementation and performance is transfered to the state and local levels. However, the new law retains certain authorities for the Department of Labor to monitor compliance in the use of Federal funds.

The Secretary is given authority to monitor all recipients of funds under the Act to assure compliance with the law and regulations. This includes authority to investigate any matter considered necessary to determine compliance and may include examining records, questioning employees, entering any premises or site in which any part of a program is conducted.

Recordkeeping, Reports

Each recipient must keep records sufficient to permit the preparation of required reports and the tracing of funds to a level of expenditure adequate to ensure lawful use of funds.

Each recipient must submit reports on program performance not more than once each quarter. Each state, recipient, and administrative entity under the Act must:

- report on its operations and expenditures in a manner prescribed by the Secretary; and
- maintain a management information system (according to guidelines provided by the Secretary) that provides a uniform compilation and analysis of program and financial data needed for reporting, monitoring, and evaluating.

## VI. EMPLOYMENT SERVICE

The new legislation amends the Wagner-Peyser Act which authorizes the functions of the U.S. Employment Service. Amendments to the Wagner-Peyser Act were considered desirable in order to accomplish a number of objectives including:

- o strengthen the link between the planning and operations of E.S. and local job training programs for the disadvantaged
- o review E.S. funding formulas in order to target resources to areas of highest need
- o establish in law a system of performance incentives for local E.S. operators
- o require reimbursement by DOL for DOL-mandated functions to be performed by E.S. (In the past, numerous functions were mandated without financial reimbursement).

Of particular concern for PICs and local governments are the new E.S. planning provisions.

### E.S. Planning

E.S. annual (not biennial) planning now includes mandated functions for PICs and local chief elected officials. Specifically, the local E.S. office must plan certain components of the E.S. plan "jointly with each appropriate private industry council and chief elected official or officials" for the service delivery area or areas in question. Unlike the final version of the Senate bill, this legislation does not require that local service delivery areas for E.S. be the same as those for the job training program. Therefore, a local E.S. office may be dealing with more than one service delivery area (and PIC) or vice versa. Details of the E.S. planning process are outlined below.

Step 1 -- DOL planning estimates (funding): By March 15, 1983, the Secretary of Labor is required to provide preliminary E.S. planning estimates for fiscal year 1984 -- an extended transition year for E.S. covering a 21 month period from October 1, 1983 to June 30, 1985. This extended year results from the fact that E.S. is also being changed over to the new program year used for the job training programs. (The new program year begins nine months after the fiscal year -- e.g., July 1, not October 1). The switch to the program year is intended to facilitate coordination with the job training program and to leave sufficient time for planning.

Final DOL planning estimates are required by March 15, 1983. Though the new law requires DOL planning estimates every March 15 and May 15, there will be no need for such estimates when the new program year takes effect (this legal requirement appears to be a technical oversight in drafting the legislation.) Note that, unlike the job training program, E.S. will continue to operate on an annual, not a biennial, planning cycle.

To sum up, preliminary planning estimates are provided on March 15, 1983, for a program that does not actually begin operations until July 1, 1984 -- 15½ months later. Note that, unlike the job training program, E.S. will continue to operate on an annual, not biennial, planning cycle.

Step 2 -- Local E.S. agency develops local plan; applicable elements of plan are developed jointly with PIC and chief local elected officials: Under the new law, the local E.S. agency continues to have the lead resonsibility for developing the E.S. plan. For those components of the E.S. plan applicable to each job training service delivery area (corresponding to each PIC), however, the E.S. agency is required to involve the PIC and chief elected official in the following ways:

- o Applicable components of the plan -- a term which remains undefined in the law and conference report -- must be developed jointly with the appropriate PIC and chief elected official or officials for each affected service delivery area.

- o The E.S. plan must be developed "taking into consideration proposals developed by the PIC and chief elected official(s)" -- no PIC/chief elected official concurrence on the E.S. plan is required in law.

Step 3 -- Local E.S. submits plan to the state job training coordinating council, and to the Governor, and to the State E.S. agency.

Step 4 -- State job council certifies plan or returns plan to E.S. for further consideration. The state job training council, upon reviewing the E.S. plan, shall certify the plan if it determines:

1) that the applicable components of the plan have been jointly agreed to by the E.S. and the appropriate PICs and elected officials; and

2) that the E.S. plan is consistent with the Governor's coordination and special services plan.

If the state council finds that the plan does not meet the above-stated criteria, then the plan shall be returned to the E.S. for 30 days for it to consider, jointly with the appropriate PIC(s) and elected officials, the state council's recommendations for modifying the plan.

Step 5 -- State E.S. agency submits state E.S. plan to Secretary of Labor and makes available to the Secretary all local E.S. plans; dissenting views and recommendations on local plans from PICs and local elected officials and from the state job training coordinating council or the Governor must be transmitted to the Secretary. The state E.S. agency must make available all local E.S. plans to the Secretary of Labor. If the PIC and local chief elected officials fail to reach agreement with the local E.S. agency on the local plan, the PIC and local elected officials (as one unit) and the state job training coordinating council shall each transmit their recommendations with the plan to the Secretary. Also, the Governor "shall be afforded the opportunity to review and transmit to the secretary proposed modifications" of E.S. plans.

Step 6: The Secretary of Labor approves or disapproves the E.S. plans: This step and subsequent steps in the E.S. planning process were not changed, or even addressed, in the new law. Current E.S. planning procedures at this stage presumably will remain unchanged, subject only to regulatory modifications.

A key element of E.S. planning which is not addressed in this law or in the original Wagner-Peyser Act is the role of JSECs -- Job Service Employer Committees. These are volunteer private sector employer advisory committees which now operate in most localities. JSEC's evolved during the early and mid-seventies from a combination of public and private initiatives in response to a growing recognition that private employers were concerned about the quality of E.S. services. In many communities, JSEC's represent a considerable pool of private sector interest and expertise on E.S. issues and should be able to assist PIC's considerably in their new E.S. planning role.

E.S. Funding and Activities

The job training bill, in addition to changing E.S. planning procedures, also contains new provisions regarding E.S. funding and activities. Specific provisions are outlined below.

New E.S. Funding Formulas: Past E.S. funding to states was distributed by a complex formula developed at the Department of Labor. The new law contains a funding formula which will override the old DOL formula and which is intended to target resources to areas of greatest need, e.g. high unemployment. The formula provides that:

- o two-thirds of E.S. funding be distributed to states based on each state's share of the national civilian labor force; and
- o one-third of E.S. funding be distributed to states based on each state's share of unemployed individuals in the nation.

Protections are built in to 1) avoid sharp funding cuts to states during the transition from the old formula to the new formula, and 2) protect those states, such as Alaska, which would lose the most funds under the new formula. Protections include:

- o No state allotment shall be less than 90 per cent of the preceeding year's allotment.
- o No state shall receive less than 0.28 per cent of the total national allotment.
- o The Secretary of Labor shall have 3 per cent discretionary funds to assure that each state will have resources necessary to carry out E.S. activities on a statewide basis.

Governors 10% reserve fund: The new law provides that 10% of the E.S. funds alloted to each state be reserved for the Governor to perform the following three functions at his discretion:

1) Performance incentives for E.S. offices consistent with performance standards established by the Secretary of Labor

2) Services for groups with special needs (e.g. handicapped, veterans, etc.) pursuant to joint agreements between the E.S. and the appropriate PIC and chief elected official(s) and other appropriate public or nonprofit organizations

3) The "extra costs of exemplary models" for delivering E.S. services.

Definition of Standard E.S. Activities: The remaining 90% of E.S. funds allotted to each state may be used for the following services:

1) job search and placement services to job seekers including counseling, testing, occupational and labor market information, assessment, and referral to employers;

2) appropriate recruitment services and special technical services for employers; and

3) any of the following activities:

   a. evaluation of programs

   b. developing linkages between services funded under this Act and related federal or state legislation, including the provision of labor exchange services at education sites

   c. providing services for workers who have received notice of permanent layoff or impending layoff, or workers in occupations which are experiencing limited demand due to technological change, impact of imports, or plant closures

   d. developing and providing labor market and occupational information

   e. developing a management information system and compiling and analyzing reports there from, and

   f. administering the work test for the state unemployment compensation system and providing job finding and placement services for unemployment insurance claimants.

This list of activities does not drastically change current definitions of basic E.S. responsibilities. Those unfamiliar with the E.S. should note that the E.S. has been legally mandated to provide other specialized services including the Disabled Veterans Outreach Program (DVOP), Targeted Jobs Tax Credit (TJTC) certification, food stamp registration, alien labor certification, and services to migrant and seasonal farmworkers. Issues involving the continuation and funding sources of these specialized services under the new law remain unresolved and could be the subject of regulatory debate.

E.S. Reimbursement Principles: The new law provides that the E.S. may perform "other services and activities as shall be specified in contracts for payment or reimbursement of the costs thereof made with the Secretary of Labor or with any Federal, state, or

local public agency ..." This means that, unlike the past, the E.S. cannot be mandated to perform new functions by state agencies or the Department of Labor without being reimbursed for the costs of assuming those functions.

E.S. Performance Standards: The new law authorizes (but does not mandate) the Secretary of Labor to establish performance standards for "activities under this Act which shall take into account the differences in priorities reflected in state plans." The law does not further specify the nature of such performance standards.

Labor Market Information: The law authorizes funding as may be necessary for the Secretary to reimburse states for operating "statistical programs which are essential for the development of estimates of the gross national product and other national statistical series, including those related to employment and unemployment". (In some states, this function is coordinated through state E.S. agencies.) This provision does not fund all labor market information activities -- other sections of the new law authorize a variety of other information related activities. This provision appears to apply to those statistics compiled by the Bureau of Labor Statistics.

## VII. STATE ACTIVITIES AND PROGRAMS

### Coordination of Employment and Training-Related Activities

The new law gives the state special responsibilities for coordinating job training programs at state and local levels with all other employment and training-related activities administered through state agencies. The Act establishes a state job training council to assist the Governor in developing a statewide plan to coordinate a variety of related state agency programs such as state and local education agencies (including vocational education), public assistance agencies, the employment service, rehabilitation agencies, postsecondary institutions, economic development agencies, and others that the Governor determines to have a direct interest in employment and training or human resource utilization within the state. While the state-developed criteria for coordination of these activities must be followed in local planning, they cannot affect local discretion on the selection of eligible participants or service providers.

To enhance statewide coordination, the Governor is given authority to transfer the functions of previous state councils established under the Work Incentive Program (WIN) and the Wagner-Peyser Act (state employment service) to the new state job training council.

### State Program Activities

Governors are authorized to use part of the 22 percent of funds set aside for state-administered activities (out of Title II, Part A) for a variety of program efforts which must be described in the Governor's "coordination and special services plan" submitted to DOL. These activities could include:

1) establishing statewide programs of joint funding for programs under this Act with services under other federal, state, or local employment-related programs

2) making available to local areas appropriate information and technical assistance for developing and implementing program plans

3) providing preservice and service training for planning, management, and delivery staffs of administrative entities and PICs

4) carrying out special model training programs

5) providing programs and services to offenders and other persons under state jurisdiction requiring special assistance

6) funding special programs designed to meet the needs of rural areas outside major labor market areas

7) providing industry-wide training

8) providing local service delivery areas with available information on economic, industrial, and labor market conditions.

The Act designates 5 percent of the 22 percent funds set aside at the state level for use by the Governor in providing these special program activities and for auditing, administrative costs, and funding of the state job training coordinating council.

The state (through the state job training council) must identify the state's employment and training needs and assess whether services represent a consistent, integrated, and coordinated approach to meeting those needs. The state must review state agency plans to ensure their relevancy and effectiveness for employment and training and related service delivery systems in the state.

The Act provides substantial new authority to states under these provisions with the potential for developing cohesive and integrated employment and training policy goals that meet individual state needs and economic conditions. This authority is enhanced by the Governor's authority to consolidate functions of various state councils under the umbrealla of the state job training coordinating council. The state council can implement state goals through the development of program coordination criteria which can be enforced locally in SDA plans.

These activities of the state council, which require approval by the Governor, should be viewed in the context of other state authorities noted earlier in this text as a means available for establishing statewide policies. These other authorities include:

- o designation of service delivery areas, with the Governor having authority to design the boundaries of local planning and administration in many parts of the state
- o how localities intend to account for or protect the use of federal funds (under both state and federal standards)
- o how localities plan to coordinate job training with related activities (under criteria specified in state plans)
- o determining whether a local plan is in compliance with the federal law and regulations, (which in some cases may be a matter for state interpretation)
- o oversight of programs for rewarding or sanctioning local service delivery areas based on program performance.

Performance Incentive Grants

The Act requires the Governor to use 6 percent of funds allocated to the State under Title II, Part A, for incentive grants to local service delivery areas exceeding their performance standards. If areas do not meet minimum standards, the Governor can use the funds to provide technical assistance to the area. (See page 38, under Performance Standards, for an explanation of fund distribution).

State Education Coordination and Grants

The Act sets aside 8 percent of the funds allocated to the states under Title II, Part A, for use in coordinating job training services with state education and training agencies. The Governor is to provide these funds to the state education agency for two purposes:

1) 1.6 percent of the Title II allocation, (20 percent of the state education set-aside), may be used to facilitate training/education coordination through technical assistance, professional development, job placement, counseling, and curriculum development.

2) 6.4 percent of the Title II allocation, or 80 percent of the set-aside, must be used for education and training (including vocational education) services to eligible participants, developed through cooperative agreements between the state education agency, local SDA administrators, and, in some cases, local education agencies. Other provisions relating to the education services set-aside include:

   - o A requirement for the funds to be matched by States with cash contributions, or equipment, services or supplies funded from other sources and directly used to provide services to participants.
   - o A requirement for three-fourths of the funds to serve the economically disadvantaged. (One fourth can be used to serve other participants under the Act, such as displaced workers.)
   - o Matching funds for education services are to be distributed according to agreements between education agencies and service delivery areas, and not allocated to substate areas by formula.
   - o If no joint agreements are reached these funds revert to the Governor for use in other statewide activities.

Training Programs for Older Workers

The Act requires the Governor to use 3 percent of funds allocated to the State under Title II, Part A, to provide job training for older workers who are disadvantaged and 55 years of age or older.

The programs are to be developed with the service delivery areas and designed to assure training and placement in employment with private business concerns.

After consultation with local areas, the Governor can also enter into agreements with public agencies, nonprofit private organizations, and private business concerns to provide job training. Consideration must be given to growth industries and jobs reflecting the use of new technological skills.

Dislocated Worker Programs

The Act, under Title III, provides a separate authorization and program of assistance for dislocated workers in all States.

Three-fourths of the funds available for this program are distributed by formula to the states based on their relative share of:

- o total unemployment
- o excess number of unemployed (over 4.5 percent); and
- o number of persons unemployed 15 weeks or longer.

One-fourth of the funds are not subject to the allocation formula and are distributed by the Secretary on the basis of applications submitted by States. These funds are reserved for more critical situations (beyond the ongoing formula funded program) such as mass layoffs, natural disasters, federal government actions (closing major facilities), or states with high unemployment. The funds could also be requested for use in designated enterprise zones.

Unlike other funds under the Act used for training, which are available locally for obligation up to three years after allocation, funds for displaced workers may be reallocated by the Secretary if not obligated within one year of allotment to the states.

Identification of Displaced Workers: The State may develop its own procedures for identifying substantial groups of eligible persons who:

1) have been or will be terminated or laid-off from employment, are eligible or have exhausted unemployment compensation, and are unlikely to return to their industry or occupation;

2) have been or will be terminated as a result of any permanent closure of a plant or facility;

3) are long-term unemployed with little chance of employment in the same or a similar occupation in the area, including persons with barriers to employment by reason of age.

States may use local PICs to assist in identifying eligible workers. States must also work with PICs to determine what jobs exist within or outside the labor market area for which workers could be retrained, and must determine whether training for such jobs can be provided. Any information concerning such training opportunities must be disseminated by the state to dislocated workers.

Training Services: Services which may be provided to dislocated workers include (but are not limited to):

- o job search assistance and job clubs
- o job development
- o training in job skills for which demand exceeds supply
- o supportive services, including communting assistance and counseling
- o pre-layoff assistance

- o relocation assistance (may be provided only if the State determines that the participant: a) cannot obtain a job within the commuting area, and b) has secured a job in a relocation area in a state)

- o programs in cooperation with employers or labor organizations for early intervention in the event of facility closures.

Match Required: An equal match from non-federal sources is required for the use of funds received under dislocated worker programs. The match requirement may be reduced whenever a State's average rate of unemployment is higher than the national average. The amount of non-federal matching funds required are reduced 10 percent for each percent (or portion thereof) that the state's unemployment rate exceeds the national average. The Secretary must determine the average rates of state and national unemployment annually.

State-funded unemployment insurance benefits paid to an eligible dislocated worker program participant can be counted for up to half of the non-federal match required.

Consultation Requirements: Dislocated worker programs to be operated in a service delivery area may not begin without a 30 day review and recommendation period for PICs and local elected officials. Also, any program serving a substantial number of members of a labor organization can be established only after full consultation with the organization.

Application of the 70/30 Split of Training and Non-Training Costs: Under the dislocated worker title, the 70/30 limits apply only to federal funds allocated to each state by formula (not to the 25 percent of funds reserved by the Secretary and distributed on the basis of individual state applications). Furthermore, the 70/30 limitations do not apply to non-federal matching funds, so in no case will they apply to more than half of the total funds available to the state dislocated worker program.

State Labor Market Information Program

States have several important labor market information responsibilities; most of these are covered in the following section on federal activities (Section VII).

Authority of State Legislatures

The Act contains a general provision relating to the authority of state legislatures which provides that nothing in the Act shall..." be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this Act, of the programs assisted under this Act."

This provision was intended to clearly reaffirm the fact that states may use their individual constitutional authority to coordinate other state programs with job training activities, to appropriate matching funds for programs under this Act, and to refine or streamline other administrative requirements under state law that might be necessary for effective implementation of this program.

## VIII. FEDERALLY ADMINISTERED PROGRAMS

Although the new law takes a major step in reducing the direct Federal role in local program oversight and administration, the law retains various programs and activities appropriately carried out at the Federal level.

Programs for Native Americans and Migrant and Seasonal Farmworkers

The Act continues the special grant programs authorized previously under CETA for delivering employment and training services to meet the particular needs of native Americans and seasonal farmworkers. The new law requires that program plans also incorporate the performance standards applicable to other training programs under the Act.

Procedures consistent with standard competitive government procurement policies must be used in awarding grants or contracts.

Job Corps

The Act extends current authority for the Job Corps (previously authorized under CETA) as a distinct national program. The new law makes only technical and conforming changes to accomodate the replacement of related provisions under CETA.

The Act adds local service delivery area administrative entities to the list of agencies considered appropriate for screening and selection of Job Corps applicants. It authorizes the Secretary to reimburse individuals or organizations for the cost of proper recruitment, screening and selections for the Job Corps.

Veterans Employment Programs

The Secretary of Labor is required to provide and contract for programs that meet the employment and training needs of service-connected disabled veterans, Vietnam era veterans, and veterans recently separated from military service.

The Secretary must administer the programs through the Assistant Secretary of Labor for Veterans' Employment, who must coordinate these services with other Veterans' Administration programs. Programs are also subject to performance standards under the Act. Programs may include (but are not limited to):

- supplementing veterans' employment and training services under other Federal, State, or local programs
- employment and training services not adequately provided by other public providers of services
- outreach and public information activities to develop maximum jobs and training opportunities for veterans and to inform veterans about opportunities available under this Act.

Multi-State Programs

The Act provides for Federal administration of programs which are more appropriately administered at the national level and which are operated in more than one state. Thes include programs such as:

- o those addresed to industry-wide skill shortages
- o those designed to train workers for jobs in another state
- o efforts to develop labor force skills that promote renewable energy technologies, energy conservation, and weatherization of low-income family homes
- o developing information networks among local programs
- o those requiring technical expertise available at the national level serving specialized needs of particular client groups (including offenders, persons of limited English language proficiency, handicapped inidividuals, women, single parents, displaced homemakers, youth, older workers, public assistance recipients and persons who lack education credentials).

Research and Demonstration

The Secretary must carry out a comprehensive program of employment and training research on a variety of subjects such as program improvement, data use and forecasting, worker shortages, easing the transition from school to work, from welfare to workplace, from job to job, and from work to retirement.

The Secretary must also establish a program of experimental and demonstration projects, through grants or contracts, to improve the effectiveness of methods for meeting employment and training problems.

National Commission for Employment Policy

The Act reconstitutes the commission previously authorized under CETA with 15 members (9 appointed by the President). The provisions increase to 5 the number of staff who can be appointed without regard to civil service rules and regulations. Of the functions given to the Commission, the most important one in the coming year is to advise the Secretary on the development of national performance standards for job training programs.

Amendments to the Work Incentive (WIN) Program

This Act also contains amendments to Part C of Title IV of the Social Security Act which authorizes the Work Incentive program (WIN) providing job search, referral, and placement services for AFDC recipients who are able to work.

The amendments require that WIN registrants are referred, when appropriate, for training and employment services under the Job Training Partnership Act. This provision is intended to improve coordination between the two programs particularly in regard to needs assessment, screening, and referral of welfare recipients to training.

The amendments also require the Governor to more closely coordinate State WIN programs with job training in local service delivery areas.

The previously authorized responsibilities of the "Labor Market Advisory Council" under the WIN program are transferred to local PICs. The Secretary of Labor is required to utilize the services of local PICs to identify and provide advice on the types of jobs available or to become available in the area for WIN registrants.

State employment service agencies are usually the local administrative units for WIN, while social services to participants are provided through a separate administrative unit of the welfare agency. It is likely that PICs will review local WIN program plans under the joint planning process for preparation of local employment service plans.

In recent years, the WIN program has annually registered about 800,000 AFDC recipients with approximately one-third placed in unsubsidized jobs.

Labor Market Information

The new law authorizes a comprehensive labor market information program with key responsibilities at the state and national levels. Of particular note are provisions which strengthen the role of State Occupational Information Coordinating Committees (SOICC) and their national counterpart (NOICC).

Funds for State LMI programs are made available on a reimbursement basis from the Secretary of Labor, payable through the National Occupational Information Coordinating Committee.

The Governor must designate the State Occupational Information Coordinating Committee or other organizational unit to be responsible for oversight and management of a statewide system which must:

- o provide comprehensive and cost-efficient labor market and occupational information
- o be responsive to economic demand and education and training supply needs
- o use automated technology, when feasible; reduce administrative, paperwork; and reduce multiple survey burdens on employers.
- o standardize data for employment and economic analysis (with projections) for state and local areas on:
  - -- geographical and occupational areas of potential growth or decline
  - -- the potential impact of such growth or decline on individuals, and communities

The Act requires the Federal government to maintain the Occupational Employment Statistics Program, the Dictionary of Occupational Titles and an annual report on earnings and income. It also authorizes development of economic hardship measures, and household living standard budget data. The Secretary must develop statistical data on the closing of mines, plants, or facilities employing 50 or more workers.

The Secretary must:

- o review the application of all national data collection and processing systems
- o maintain and implement national standardized definitions for data
- o provide technical assistance to States in developing and using labor market and occupational information systems and projections, especially in using automated systems and improving public access to information.

Job Bank Program: The Secretary is also authorized to carry out a computerized job bank and job matching program. This would continue the listing of federal contractor job openings with the employment service and permit the development of a job file for labor supply information by occupation.

Training to Fulfill Affirmative Action Obligations

Employers who are subject to affirmative action obligations under Federal contracts may be helped to satisfy those obligations by establishing or participating in an approved training program under the Job Training Partnership Act. Under this law a contractor who has such a training program must continue to meet affirmative action obligations, but need only maintain an abbreviated affirmative action paln when participating under this Act. Successful performance or operation of such a training program will establish the presumption that the contractor has made a good faith effort to meet its affirmative action obligations. The Office of Federal Contract Compliance Programs in the Department of Labor will set specific standards defining successful performance based on the law's requirement that programs demonstrate job placement for participants either in the employer's facility or in the community.

A qualified training program must include a description of:

- o jobs in the contractor's work force or the area for which there is a need for training
- o recruiting, training, or other functions to be performed and steps to be taken insuring that economically disadvantaged persons will be selected for training, trained in necessary skills, and referred for job openings
- o demonstrated effectiveness of an organization, other than the contractor, if such an organization is used as the provider of employment and training services

- how the contractor will monitor the program and keep an accounting of all trainees including their successful completion of training and placement

- estimated costs of the program and assurance that the contractor will assume program costs or its pro rata share.

If the training program is designed to meet the needs of the labor market area rather than those of the contractor, and it has not been approved by another federal agency, it must be submitted to the local private industry council which determines that there is a need for such training. The PIC may include such trainees in its performance accomplishments and wage gains in determining overall program performance under the Act.

The Director of the Office of Federal Contract Compliance Programs must issue regulations on how the Office will determine, during a compliance review, the degree to which a training program will satisfy the contractor's affirmative action obligations.